

### **REMARKS/ARGUMENTS**

Claims 1-4, 9-12, 15-16, 18-28 and 30-42 are pending in the application. Claims 5-8, 13-14, 17 and 29 are hereby cancelled without prejudice. Claims 38-42 have been added. This amendment is being filed with a Request for Continued Examination and a request for a three month extension. A credit card authorization form is enclosed to pay for the fees. The examiner rejected claims 1-37 in the final Office Action mailed January 21, 2005 (hereinafter referred to as "Office Action"). In view of the following remarks and amendments, applicant respectfully request a timely Notice of Allowance be issued in this case.

Support for the amendments can be found throughout the application. Applicants respectfully submit that no new matter is added by the amendments.

#### ***Claim Rejections under 35 U.S.C. § 102***

The examiner rejected claims 1-2, 9-10 and 28 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,793,980 to Glaser. Specifically, the examiner stated that Glaser teaches an audio on demand communication system. For anticipation, a single reference must identically disclose every element of the claimed invention. *Corning Glass Works v. Sumitomo Electric*, 9 USPQ 2d 1962, 1965 (Fed. Cir. 1989). A reference that excludes a claimed element, no matter how insubstantial or obvious, is enough to negate anticipation. *Connell v. Sears, Roebuck & Co.*, 220 USPQ 193, 198 (Fed. Cir. 1983).

#### ***Claim 1***

With respect to claim 1, as amended, applicant respectfully submits that Glaser does not disclose a method that:

converts said signals to a digital format using a sampling rate and a resolution sufficient to insert a first digital watermark into each sample without degrading said sample; or

inserts the first digital watermark into each sample.

As a result, applicant respectfully submits that claim 1, as amended, is not anticipated by Glaser and is, therefore, allowable under 35 U.S.C. § 102.

#### ***Claim 2***

With respect to claim 2, as amended, applicant respectfully submits that Glaser does not disclose a method wherein said portable file is converted to a format selected by said end user. As a result, applicant respectfully submits that claim 2, as amended, is not anticipated by Glaser and is, therefore, allowable under 35 U.S.C. § 102. Moreover, applicant respectfully submits that claim 2, as amended, depends from claim 1, which is allowable for the reasons stated above, and further distinguishes over the cited references.

Accordingly, applicant respectfully submits that claim 2, as amended is not anticipated by Glaser and is, therefore, allowable under 35 U.S.C. § 102

### ***Claim 9***

With respect to claim 9, as amended, applicant respectfully submits that Glaser does not disclose a system that:

converts said plurality of digital signals into a combined signal, transports said combined signal to a processing and storage system via a single connector, stores said combined signal, converts said combined signal back to said plurality of digital signals, converts said plurality of digital signals into a portable file, and closes said portable file each time a song or act is completed.

As shown in Figure 2A and described in columns 5-6, Glaser takes the inputs and converts them to a digital signal that is compressed and then stored in the digital library for future access. Glaser does not convert the combined signal back to a plurality of digital signals and then convert the digital signals into a portable file that is closed each time a song or act is completed. As a result, applicant respectfully submits that claim 9, as amended, is not anticipated by Glaser and is, therefore, allowable under 35 U.S.C. § 102.

### ***Claims 10 and 28***

With respect to claims 10 and 28, applicant respectfully submits that claims 10 and 28 depend from claim 9 and 2, respectively and which are allowable for the reasons stated above, and further distinguish over the cited references. Accordingly, applicant respectfully submits that claims 10 and 28, as amended are not anticipated by Glaser and are, therefore, allowable under 35 U.S.C. § 102.

### ***Claim Rejections under 35 U.S.C. § 103(a)***

The examiner rejected claims 3, 5-6, 11, 13-15 and 29-37 under 35 U.S.C. § 103(a) as being unpatentable over Glaser in view of U.S. Patent No. 6,442,283 to Tewfik. The examiner also rejected claims 4 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Tewfik as applied to claim 3, and further in view of U.S. Patent No. 5,664,018 to Leighton. In addition, the examiner rejected claims 7-8 and 16-17 under 35 U.S.C. § 103(a) as being unpatentable over Glaser in view of U.S. Patent No. 6,338,044 to Cook. Moreover, the examiner rejected claims 18-19, 25 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Glaser in view of U.S. Patent No. 6,052,470 to Mouri. The examiner also rejected claims 20-24 under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Mouri as applied to claim 18 and in further view of Tewfik.

In order to establish a prima facie case of obviousness, three criteria must be met: (1) there must be some suggestion or motivation in the prior art to modify the reference or to combine reference teachings as proposed, (2) there must be a reasonable expectation of success, and (3) the prior art or combined references must teach or suggest all the

claim limitations. MPEP § 2143; *In re Vacek*, 947 F.2d 488 (Fed. Cir. 1991). “The prior art must suggest the desirability of the claimed invention.” MPEP § 2143.01. **Both the invention and the prior art references must be considered as a whole.** MPEP § 2141.02. Applicant respectfully submits that claims 1-37, as amended, are not obvious over the cited art and are, therefore, allowable under 35 U.S.C. § 103(a) for the reasons stated below.

Unless the reference(s) teach or suggest all the claim limitations, obviousness cannot be found. MPEP § 2143.03. Further, once an independent claim is found to be non-obvious under 35 U.S.C. § 103, then any claim which depends from that independent claim is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). For the reasons stated below, applicant respectfully submits that the cited references do not disclose, teach or suggest all the claim elements of claims 1-37, as amended.

### ***Claim 1***

With respect to claim 1, as amended, applicant respectfully submits that Glaser and the other cited references do not disclose, suggest or teach, either alone or in combination, a method that:

converts said signals to a digital format using a sampling rate and a resolution sufficient to insert a first digital watermark into each sample without degrading said sample; or  
inserts the first digital watermark into each sample.

As a result, applicant respectfully submits that claim 1, as amended, is not obvious over the cited references and is, therefore, allowable under 35 U.S.C. § 103.

### ***Claims 2-4, 25-28, 30-32 and 38-41***

With respect to claims 2-4, 25-28, 30-32 and 38-41, as amended, applicant respectfully submits that claims 2-4, 25-28, 30-32 and 38-41, as amended, depend from claim 1, which is allowable for the reasons stated above, and further distinguish over the cited references. Accordingly, applicant respectfully submits that claims 2-4, 25-28, 30-32 and 38-41, as amended are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103.

### ***Claim 9***

With respect to claim 9, as amended, applicant respectfully submits that Glaser and the other cited references do not disclose, suggest or teach, either alone or in combination, a system that:

converts said plurality of digital signals into a combined signal, transports said combined signal to a processing and storage system via a single connector, stores said combined signal, converts said combined signal back to said plurality of digital signals, converts said plurality of

digital signals into a portable file, and closes said portable file each time a song or act is completed.

As shown in Figure 2A and described in columns 5-6, Glaser takes the inputs and converts them to a digital signal that is compressed and then stored in the digital library for future access. Glaser does not convert the combined signal back to a plurality of digital signals and then convert the digital signals into a portable file that is closed each time a song or act is completed. The other references do not cure this deficiency. As a result, applicant respectfully submits that claim 9, as amended, is not anticipated by Glaser and is, therefore, allowable under 35 U.S.C. § 103.

***Claims 10-12, 15-16 and 33-37***

With respect to claims 10-12, 15-16 and 33-37, applicant respectfully submits that claims 10-12, 15-16 and 33-37 depend from claim 9, which is allowable for the reasons stated above, and further distinguishes over the cited references. Accordingly, applicant respectfully submits that claims 10-12, 15-16 and 33-37, as amended are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103.

***Claim 18***

With respect to claim 18, as amended, applicant respectfully submits that Glaser and the other cited references do not disclose, suggest or teach, either alone or in combination, a system that:

- a multiplexor connected to the capture device for converting said plurality of digital signals into a combined signal;

- a processing unit connected to the multiplexor via a single connector for converting said combined signals to a plurality of time-synchronized and locked digital signals; and

- a plurality of digital signal processors connected to the processing unit for each of said plurality of time-synchronized and locked digital signals for directing said signals, wherein at least one of said signals from said plurality of digital signal processors is converted into a portable file

As a result, applicant respectfully submits that claim 18, as amended, is not obvious over the cited references and is, therefore, allowable under 35 U.S.C. § 103.

***Claims 19-24***

With respect to claims 19-24, as amended, applicant respectfully submits that claims 19-24, as amended, depend from claim 18, which is allowable for the reasons stated above, and further distinguish over the cited references. Accordingly, applicant respectfully submits that claims 19-24, as amended are not anticipated by the cited references and are, therefore, allowable under 35 U.S.C. § 103.

***Claim 42***

With respect to claim 42, applicant respectfully submits that the cited references do not disclose, teach or suggest all the elements recited in claim 42. Accordingly, applicant respectfully submits that claim 42 is not obvious over the cited references, and is, therefore, allowable under 35 U.S.C. § 103.

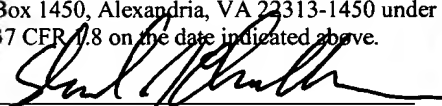
***Conclusion***

For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 1-4, 9-12, 15-16, 18-28 and 30-42, as amended, are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Respectfully submitted,

CHALKER FLORES, LLP

By 

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I certify that this paper is being deposited with the USPS with sufficient postage for delivery to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 under 37 CFR 1.8 on the date indicated above.

Daniel J. Chalker

Daniel J. Chalker  
Reg. No. 40,552  
Tel.: (214) 866-0001  
Fax: (214) 866-0010

12700 Park Central Drive  
Suite 455  
Dallas, Texas 75251